

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PUBLIC HEARING
37.78.102 and 37.78.807 pertaining to	)	ON PROPOSED AMENDMENT
temporary assistance for needy	)	
families (TANF) incorporation of policy	)	
manuals	)	

TO: All Interested Persons

1. On January 12, 2007, at 10:00 a.m., a public hearing will be held in the Auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on January 2, 2007, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.78.102 TANF: FEDERAL REGULATIONS ADOPTED BY REFERENCE

(1) ~~The TANF program shall be administered in accordance with the requirements of federal law governing temporary assistance for needy families (TANF) as set forth in Title IV of the Social Security Act, 42 USC 601 et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997.~~ The TANF program shall be administered in accordance with the requirements of federal law governing temporary assistance for needy families as set forth in Title IV of the Social Security Act, 42 USC 601 et seq., as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, the Balanced Budget Act of 1997, and the Deficit Reduction Act of 2005.

(2) The "Montana TANF Cash Assistance Manual" dated ~~July 1, 2006~~ January 1, 2007 is adopted and incorporated by this reference. A copy of the Montana TANF Cash Assistance Manual is available for public viewing at each local Office of Public Assistance, and at the Department of Public Health and Human Services, Human and Community Services Division, 1400 Broadway, P.O. Box 202952, Helena, MT 59620-2952. Manual updates are also available on the department's web site at [www.dphhs.mt.gov](http://www.dphhs.mt.gov).

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.807 TANF CASH ASSISTANCE EMPLOYMENT AND TRAINING

ACTIVITIES (1) Participants in TANF cash assistance, regardless of whether they are members of a single parent or two-parent family, may, in accordance with their WoRC employability plan, subject to availability in their community, participate in the following activities:

(a) paid employment or self employment. ~~The hours counted for self employment beyond the first two months are the gross wages divided by minimum wage;~~ The hours counted for self employment beyond the first two months are the gross income minus business expenses divided by minimum wage;

(b) work experience placement (WEX) as defined at ARM 37.78.103;

(c) ~~job search as defined at ARM 37.78.103. Job search is limited for each participant in each federal fiscal year by federal rule;~~ job search and job readiness assistance as defined at ARM 37.78.103. Job search and job readiness assistance are limited for each participant in each federal fiscal year by federal rule;

(d) community service as defined at ARM 37.78.103;

(e) vocational educational training as defined at ARM 37.78.103. Vocational educational training is limited in a lifetime for each participant by Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Section 407;

(f) job skills training directly related to employment as defined at ARM 37.78.103. Job skills training related to employment is limited to ten hours per week per individual for single parent households and five hours per week per individual for two-parent households; ~~and~~

(g) educational activities as defined at ARM 37.78.103;

(i) Educational activities are not limited for individuals under the age of 20 who do not have a high school diploma or GED.

(ii) Educational activities are limited for individuals 20 years of age or older to ten hours per week per individual for single parent households and five hours per week per individual for two-parent households; ~~and~~

(h) on the job training as defined at ARM 37.78.103.

(2) In addition, a limited number of participants in TANF cash assistance households may participate in Parents as Scholars as defined in ARM 37.78.812. The number of slots allowed, if any, may differ for single or two-parent households due to federal participation rate requirements for each and the penalties that would result from not meeting them.

AUTH: 53-4-212, MCA

IMP: 53-4-201, 53-4-211, 53-4-601, 53-4-613, MCA

3. ARM 37.78.102 currently adopts and incorporates by reference the TANF policy manual effective July 1, 2006. The department proposes to make some revisions to this manual that will take effect on January 1, 2007, based in part on the TANF Reauthorization regulations contained in the Deficit Reduction Act of 2005. The proposed amendments to ARM 37.78.102 are therefore necessary in order to incorporate into the Administrative Rules of Montana the revised versions of the

policy manuals and to permit all interested parties to comment on the department's policies and to offer suggested changes. It is estimated that changes to the TANF manual could affect approximately 9,317 TANF recipients. Manuals and draft manual material are available for review in each local Office of Public Assistance and on the department's web site at [www.dphhs.mt.gov](http://www.dphhs.mt.gov).

Following is a brief overview of the TANF manual sections with substantive changes.

TANF 701-1 - Family Investment Agreement/WoRC Employability Plan

TANF 701-1 is being updated to reflect who is a "work eligible" individual under the TANF Reauthorization regulations; therefore, mandated to participate in employment and training activities.

TANF 701-2 - WoRC Participation

TANF 701-2 is being updated to reflect the increased hours of participation based on the TANF Reauthorization regulations and the necessity to no longer attribute 12 hours toward each individual's participation hours for travel time to and from work activities and case management as these are not allowed within the new definition of allowable work activities. The increased hours of scheduled and verified participation will be 132 hours per month for single parent households and 152 hours per month per individual for two-parent households.

TANF 701-3 - Participation Components

TANF 701-3 is being updated to reflect the new work activity definitions based on the federal guidance as to what constitutes an allowable work activity in the TANF Reauthorization regulations contained in the Deficit Reduction Act of 2005. Under TANF Reauthorization states are limited as to what constitutes an allowable work activity for purposes of meeting the work participation rate as mandated by the Administration for Children and Families. Added several new work activity definitions, again, as allowed by TANF regulations.

TANF 701-4 - WoRC Participation and Reconciliation

TANF 701-4 is being updated to reflect the work activity reconciliation processes that are changing based on the TANF Reauthorization regulations. The system reconciliation involving closed TANF cases must be changed. Only the actual, verified hours of work activities will be reported in the TANF file.

TANF 702-1 - Conciliation

TANF 702-1 is being removed from the manual as the formal conciliation process is being discontinued. Based on the strict requirements for participation in work activities contained in the TANF Reauthorization regulations, it has been determined that noncompliance without good cause in work activities will lead to an immediate referral for sanction.

TANF 702-2 - WoRC Sanction Review Process/Good Causes

TANF 702-2 is being updated to reflect the removal of the conciliation process and emphasize the sanction committee review process and good cause situations and

procedures. TANF Reauthorization adds ten days of excused absences from work activities per calendar year for good cause reasons, which will resolve some participation concerns.

#### TANF 702-3 - Sanction

TANF 702-3 is being updated to reflect the removal of the conciliation process. TANF Reauthorization adds ten days of excused absences from work activities per calendar year for good cause reasons, which will resolve some participation concerns. This section is also being updated to reflect the requirement for a sanctioned parent, considered a work eligible under the TANF Reauthorization regulations, to contribute to participate in work activities.

#### ARM 37.78.807

This rule has been updated to correct the calculation used to determine the self employment hours that can be counted as an allowable work activity. The correct calculation is based on gross income minus allowable business expenses divided by minimum wage.

This rule has also been updated to reflect the changes in the number and definitions of "secondary" work activities TANF participants can be involved in while fulfilling the mandatory work requirements as outlined by TANF Reauthorization language contained in the Deficit Reduction Act of 2005. Participants must now participate in work activities a total of 132 hours per month for single parent households and 152 hours per month per individual for two-parent households. Primary activities, as designated by the federal regulations, can account for 23 hours per week for single parent households and 33 hours per week for two-parent households. The remaining hours of activities will be met in "secondary" work activities as defined in federal regulations, with a maximum limit of ten hours per week for single parent households and five hours per week for two-parent households.

This change will impact an average of approximately 3,072 TANF participants who currently are mandated to participate in work activities. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

4. The TANF manual changes will be effective January 1, 2007.

5. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena, MT 59620-2951, no later than 5:00 p.m. on January 18, 2007. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov). The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

6. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/s/ Frank Clinch for  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State December 11, 2006.